IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

Crl.Rev.Pet.No. 4567 of 2006

MC.52/2006 of THE SUB DIVISIONAL MAGISTRATE, MUVATTUPUZHA
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REVN. PETITIONER:

JOBBY VARGHESE, S/O.VARGHESE,
CHEMPATTU HOUSE, KUTTAMPUZHA P.O.,
KUTTAMPUZHA, KOTHAMANGALAM TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENTS:
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1. JOSE, CHETTIYAMKUDIYIL HOUSE,
KUTTAMPUZHA P.O., KUTTAMPUZHA VILLAGE,
KOTHAMANGALAM TALUK, ERNAKULAM DISTRICT.

2. THE VILLAGE OFFICER,
KUTTAMPUZHA VILLAGE, KUTTAMPUZHA P.O.,
KOTHAMANGALAM TALUK.

BY ADV. SMT.MARY BENJEMIN
by PUBLIC PROSECUTOR MR. AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.4567 of 2006

DATED THIS THE 12TH DAY OF FEBRUARY 2007

ORDER

The revision petitioner has sought for setting aside the order of the Sub Divisional Magistrate in M.C.No.52/2006 under Section 133 (1) Cr.P.C. directing the revision petitioner to cut and remove two coconut trees which are standing in his property near to the residential building of the first respondent. It is the case of the revision petitioner that the coconut trees can be secured by tying with iron ropes and that the above course was also suggested by the Village Officer who conducted a spot inspection.

2. The petition was strongly opposed by the first respondent. It is submitted that coconuts used to fall on the roof of the house of the first respondent causing danger to the life of the family members. According to him, he is residing in three cents of land in a small house. The trees are slanting over the residence of the first respondent, it is pointed out. The Sub Divisional Magistrate in the order has observed that there is every possibility of danger to the residential building by falling of the above coconut trees. It is also noted that the petitioner herein has admitted that the coconut trees are leaning over the

property of the respondent and undertakes that he shall tighten the trees with using iron wires which was rejected by the Sub Divisional Magistrate. I find there is no scope for interference by this Court considering the fact that the revision petitioner has no right to have his trees occupying the space over the roof of the house of the first respondent. The Crl.Revision petition is dismissed.

K.R.UDAYABHANU, JUDGE

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